

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 559 be amended to read as follows:

- 1 Page 10, line 12, after "benefits" insert ",".
- 2 Page 12, line 11, after "value" insert "**to the debtor**".
- 3 Page 12, line 11, after "benefits" insert ",".
- 4 Page 13, line 37, delete "in compliance with" and insert "**under the**
- 5 **authority of**".
- 6 Page 15, line 1, delete "The" and insert "**Subject to subsection (11),**
- 7 **the**".
- 8 Page 15, between lines 8 and 9, begin a new paragraph and insert:
- 9 "**(11) The director's authority to designate an automated central**
- 10 **licensing system and repository under subsection (10) is subject to**
- 11 **the following:**
- 12 (a) **The director or the director's designee may not require**
- 13 **any person exempt from licensure under this article, or any**
- 14 **employee or agent of an exempt person, to:**
- 15 (i) **submit information to; or**
- 16 (ii) **participate in;**
- 17 **the automated central licensing system and repository.**
- 18 (b) **Information stored in the automated central licensing**
- 19 **system and repository is subject to the confidentiality**
- 20 **provisions of IC 28-1-2-30 and IC 5-14-3. A person may not:**
- 21 (i) **obtain information from the automated central licensing**
- 22 **system and repository, unless the person is authorized to**
- 23 **do so by statute; or**
- 24 (ii) **initiate any civil action based on information obtained**
- 25 **from the automated central licensing system if the**
- 26 **information is not otherwise available to the person under**
- 27 **any other state law; or**
- 28 (iii) **initiate any civil action based on information obtained**
- 29 **from the automated central licensing system if the person**
- 30 **could not have initiated the action based on information**
- 31 **otherwise available to the person under any other state**

1 law.

2 (c) Documents, materials, and other forms of information in
3 the control or possession of the automated central licensing
4 system and repository that are furnished by the director, the
5 director's designee, or a licensee, or that are otherwise
6 obtained by the automated central licensing system and
7 repository, are confidential and privileged by law and are not:

- 8 (i) subject to inspection under IC 5-14-3;
- 9 (ii) subject to subpoena;
- 10 (iii) subject to discovery; or
- 11 (iv) admissible in evidence in any civil action.

12 However, the director or the director's designee may use the
13 documents, materials, or other information available to the
14 director or the director's designee in furtherance of any
15 action brought in connection with the director's duties under
16 this article.

17 (d) Disclosure of documents, materials, and information:

- 18 (i) to the director or the director's designee; or
 - 19 (ii) by the director or the director's designee;
- 20 under this subsection does not result in a waiver of any
21 applicable privilege or claim of confidentiality with respect to
22 the documents, materials, or information.

23 (e) Information provided to the automated central licensing
24 system and repository is subject to IC 4-1-11.

25 (f) This subsection does not limit or impair a person's right to:

- 26 (i) obtain information;
 - 27 (ii) use information as evidence in a civil action or
28 proceeding; or
 - 29 (iii) use information to initiate a civil action or proceeding;
- 30 if the information may be obtained from the director or the
31 director's designee under any law.

32 (g) The director may require a licensee required to submit
33 information to the automated central licensing system and
34 repository to pay a processing fee considered reasonable by
35 the director."

36 Page 25, line 22, after "hundred" insert "fifty".

37 Page 25, line 22, strike "(\$500);" and insert "(\$550);".

38 Page 25, line 29, delete "dollars (\$500)" and insert "fifty dollars
39 (\$550)".

40 Page 26, line 4, before "dollars" insert "fifty".

41 Page 26, line 4, strike "(\$500)" and insert "(\$550)".

42 Page 26, line 5, after "five hundred" insert "fifty".

43 Page 26, line 6, strike "(\$500)." and insert "(\$550).".

44 Page 26, line 7, delete "dollars (\$500)" and insert "fifty dollars
45 (\$550)".

46 Page 26, delete lines 31 through 42, begin a new paragraph and
47 insert:

"SECTION 24. IC 24-4.5-7-401, AS AMENDED BY P.L.57-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 401. (1) A small loan may not be made for a term of less than fourteen (14) days.

(2) ~~After the borrower's fifth~~ **If five (5) consecutive small loan, loans have been made to a borrower after the borrower's initial small loan,** another small loan may not be made to that borrower within seven (7) days after the fifth consecutive small loan is paid in full. After the borrower's fifth consecutive small loan, the balance must be paid in full. ~~However, the borrower and lender may agree to enter into a simple interest loan, payable in installments, under IC 24-4.5-3 within seven (7) days after the due date of the fifth consecutive small loan.~~

(3) Subject to subsection (4), whenever a borrower has entered into an initial small loan followed by three (3) consecutive small loans, the lender shall offer the borrower the option to repay:

(a) the third consecutive small loan; and

(b) subject to subsection (2), any small loan entered into after the third consecutive small loan;

under an extended payment plan. At the time of execution of a small loan described in subdivision (a) or (b), the lender shall disclose to the borrower the extended payment plan option by providing the borrower a written description of the extended payment plan option in a separate disclosure document approved by the director.

(4) A lender shall offer an extended payment plan under subsection (3) under the following terms and conditions:

(a) A borrower shall be permitted to request an extended payment plan at any time during the term of a third or subsequent consecutive small loan if the borrower has not defaulted on the outstanding small loan.

(b) An extended payment plan must allow the outstanding small loan to be paid in at least four (4) equal installments over a period of not less than sixty (60) days.

(c) The lender may not assess any fee or charge on a borrower for entering into an extended payment plan.

(d) An agreement for an extended payment plan must be in writing and acknowledged by both the borrower and the lender.

(e) A borrower may not enter into another small loan transaction while engaged in an extended payment plan.

(5) An agreement for an extended payment plan under subsection (3):

(a) shall be considered an extension of the outstanding small loan; and

(b) may not be considered a new loan."

Page 27, delete lines 1 through 11.

- 1 Page 27, line 19, strike "fifteen" and insert "**twenty**".
- 2 Page 27, line 19, strike "(15%)" and insert "**(20%)**".
- 3 Page 28, line 11, after "hundred" insert "**fifty**".
- 4 Page 28, line 11, strike "(\$500),".
- 5 Page 28, line 13, before "excluding" insert "**(\$550),**".
- 6 Page 28, line 16, delete "dollars (\$500)" and insert "**fifty dollars**
- 7 **(\$550)**".
- 8 Page 29, line 7, delete "A lender shall cause the record of a
- 9 borrower's loan to be" and insert "**If a borrower presents evidence to**
- 10 **a lender that a loan has been discharged in bankruptcy, the lender**
- 11 **shall cause the record of the borrower's loan to be updated in the**
- 12 **database described in subsection (4)(b) to reflect the bankruptcy**
- 13 **discharge.**".
- 14 Page 29, delete lines 8 through 10.
- 15 Page 29, line 12, delete "deleted from a database described in
- 16 subsection (4)(b) upon:" and insert "**updated in the database**
- 17 **described in subsection (4)(b) to reflect:**".
- 18 Page 29, delete lines 37 through 42.
- 19 Page 30, delete lines 1 through 38.
- 20 Page 32, line 13, delete "twenty dollars (\$20)" and insert
- 21 "**twenty-five dollars (\$25)**".
- 22 Page 45, line 5, reset in roman "In an appeal under this section, the
- 23 court shall determine the".
- 24 Page 45, reset in roman line 6.
- 25 Page 69, line 23, reset in roman "In an appeal under this section,
- 26 the".
- 27 Page 69, reset in roman line 24.
- 28 Page 76, line 41, reset in roman "In an appeal under this section,".
- 29 Page 76, reset in roman line 42.
- 30 Page 80, line 27, delete ""Unimpaired" and insert "**Except as**
- 31 **provided in section 9(3)(J) of this chapter,** "unimpaired".
- 32 Page 80, line 27, after "and" reset in roman "unimpaired".
- 33 Page 80, line 27, reset in roman "means the sum".
- 34 Page 80, reset in roman line 28.
- 35 Page 80, line 28, beginning with "(A)" begin a new line double
- 36 block indented.
- 37 Page 80, line 28, beginning with "(B)" begin a new line double
- 38 block indented.
- 39 Page 80, line 28, beginning with "(C)" begin a new line double
- 40 block indented.
- 41 Page 80, line 29, reset in roman "regular reserve; and (D) allowance
- 42 for loan and lease losses.".
- 43 Page 80, line 29, beginning with "(D)" begin a new line double
- 44 block indented.
- 45 Page 80, line 29, delete "has".
- 46 Page 80, delete line 30.
- 47 Page 81, line 37, delete "an" and insert "**and**".

Page 81, line 39, after "department." insert **"For purposes of this clause, "unimpaired capital and unimpaired shares" has the meaning set forth in 12 CFR 700.2."**

Page 87, line 37, reset in roman "In an appeal under".

Page 87, reset in roman line 38.

Page 106, delete lines 9 through 21, begin a new paragraph and insert:

"SECTION 87. IC 28-8-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. **(a)** Except as otherwise provided in this chapter, a licensee may not charge check cashing fees in excess of:

(1) the greater of ~~five ten~~ dollars ~~(\$5) (\$10)~~ or ten percent (10%) of the face amount of a check, **in the case of a personal check;**
or

(2) the greater of five dollars (\$5) or five percent (5%) of the face amount of a check, in the case of all other checks.

(b) Except as provided in this chapter, a licensee or the licensee's agent may not accept multiple checks from a:

(1) person;

(2) person's spouse; or

(3) person's agent;

drawn on the person's account with the intent that the licensee may collect multiple or increased fees for cashing the checks."

Page 107, line 9, delete "JANUARY 1, 2007 (RETROACTIVE)]:" and insert "JULY 1, 2007]:".

Page 109, delete line 36.

Page 109, line 37, delete "(2)" and insert "**(1)**".

Page 109, line 38, delete "(3)" and insert "**(2)**".

(Reference is to SB 559 as printed February 13, 2007.)

Senator PAUL